

Appeal No. VA93/1/013

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Michael & Vivian Nugent**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop and Stores at Map Ref: 22 Main Street, Dundrum, E.D. Dundrum-Sweetmount, Co. Dublin  
Quantum

**B E F O R E**  
**Mary Devins**

**Solicitor (Acting Chairman)**

**Veronica Gates**

**Barrister**

**Paddy Farry**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 1ST DAY OF DECEMBER, 1993**

By Notice of Appeal dated the 18th day of February, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £132 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"The Net Annual Value is not sufficiently high to warrant a valuation of £132. The passing rent at November 1988 is primary evidence of value."

**The Property:**

The premises is located in a prime retail position beside the church and a short distance from the junction of Main Street and Ballinteer Road in Dundrum. It comprises a ground floor retail unit trading as a newsagency, confectionery and toy shop with storage space at first floor level. It is in good condition throughout and has a frontage to Main Street of 27½ feet. It is constructed of brick and masonry walls under a slated roof. The property adjoins a semi-derelict house. At ground level the shop has a timber and glazed frontage and separate access is available to the upper floor which is used as a store room. The ground floor shop has a single storey extension with a flat asphalt covered roof.

The property is held on a 35-year lease from 12th May, 1988. The passing rent is £12,500 per annum.

**Valuation History:**

- 1978 Revision & First Appeal:*** The premises and the adjoining property ( No: 23) were valued together as a bank at £130 rateable valuation.
- 1983 Revision:*** The premises was valued separately at £62 R.V..
- 1985 Revision:*** The rateable valuation was increased from £62 to £67 following the construction of a small extension at the rear.
- 1991 Revision:*** The premises was revised as part of a general revaluation of commercial property in Dundrum and the valuation was increased from £67 to £132.

In August, 1991 the occupier lodged an appeal to the Commissioner of Valuation against the 1991 Revision and the Commissioner of Valuation issued his decision affirming the R.V. at £132. On the 18th February, 1993 an appeal was lodged by Mr. Desmond J. Boyle of Boyle Drohan & Company, Chartered Valuation Surveyors, acting on behalf of the appellant, against the R.V. of £132. It is against this determination that the subject appeal lies to the Tribunal.

**Written Submissions:**

On the 22nd July, 1993 a written submission was received from Mr. Desmond J. Boyle of Boyle Drohan & Company representing the appellant.

Mr. Boyle described the property and its location in his submission and he also outlined the fact that the property is held on a 35-year lease from the 12th May, 1988 subject to the initial rent of £12,500, and that the landlord had been trading in the shop prior to this and the sale of the business was effected by way of a capital payment plus the creation of a new lease at £12,500. He said that the lessees are obliged to pay all outgoings and carry out all repairs and that they are also obliged to reimburse to the lessor the cost of insuring the building against fire.

Mr. Boyle also stated, in his submission, that the user clause restricts the use to which the premises can be put and specifically forbids restaurant or take-away use and that other uses specifically excluded are sale of televisions and video equipment or banking and financial use.

Mr. Boyle stated that, in his opinion, the rateable valuation of the property should be no more than £79 and the primary evidence is that the rent passing in November 1988 was £12,500 which had just been fixed by agreement some months previously. He said that applying the basis of .63% rent/rates ratio results in the aforementioned valuation.

On the 26th July, 1993 a written submission was received from Mr. Jim Gormley, a District Valuer with 19 years experience in the Valuation Office, on behalf of the respondent.

In his submission Mr. Gormley set out the valuation history of the property and he also gave a description of the premises and its location. Commenting on the grounds of appeal he stated that the agent was seeking a reduction in valuation to £79 based on a Net Annual Value of £12,500 and that he contended that the rent fixed in June 1988 at £12,500 represents the Net Annual Value. Mr. Gormley states, that in his view, the rent passing is well below the Net Annual Value and this view is supported by:-

- a) Letting values of comparable premises in the immediate area, and
- b) The sale price of the leasehold interest in the property in March, 1991 for £100,000.

Mr. Gormley also included, in his submission, details of seven comparable properties in the Dundrum area and these are attached as A to this judgment.

**Oral Hearing:**

At the oral hearing which took place in Dublin on 16th August, 1993, the appellant was represented by Mr. Desmond Boyle of Messrs Boyle Drohan & Company. Mr. Jim Gormley appeared on behalf of the appellant.

Mr. Boyle relied on the rent passing in November 1988 which, he said, had been fixed by agreement at £12,500, and said that his estimate of R.V. at £79 was based on the rent passing as N.A.V..

Mr. Boyle referred to the clause in the lease restricting the use to which the premises might be put, and stressed the drawbacks of Dundrum Village as a retail area because of the heavy volume of vehicular traffic passing through the Main Street.

Mr. Gormley stated that the £100,000 which was paid for the leasehold interest of the property indicates that the rent of £12,000 passing in November, 1988 was well below the true N.A.V..

He said that an analysis of comparable premises in the immediate area showed a Zone A rental of £26 to £30 per square foot. An analysis based on the rent passing on the subject would give a Zone A rent of £18 per square foot which would be considerably lower than that of the comparisons.

The Tribunal accepts Mr. Gormley's submission that the rent passing may well be below the true N.A.V..

However, in view of the restriction on user and the general traffic congestion associated with Main Street, Dundrum, Mr. Gormley's assessment of N.A.V. seems a little on the high side.

The Tribunal is of the opinion that a fair R.V. of the subject premises is £113 and so determines.